

REMARKS

A. BACKGROUND

The present Amendment is in response to the Office Action mailed January 28, 2009, which Applicant believes replaced the previous Office Action mailed October 14, 2008. The Office Action references claims 1-11. Previous claims 1-11 were cancelled by a preliminary amendment filed July 12, 2007 and new claims 12-22 were added. Accordingly, claims 12-22 remain pending.

In the Office Action, claims 1-4 and 11 were rejected in view of cited art¹, and claims 5-10 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. In view of the preliminary amendment, Applicant will treat the rejection of claims 1-4, and 11 and objection of claims 5-10 as a rejection of claims 12-15 and 22 and objection of claims 16-21. Accordingly, Applicant will respond to the rejections and objections in the Office Action as applied to claims 12-22. By this amendment, claims 16 and 22 are amended. Claims 12-22 are now pending in view of the above amendments.² If this is not the case, Applicant respectfully requests clarification regarding the pending claims and rejection, objection, or allowance of the same.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by the way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that the Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, an arguments and amendments made herein should not be constructed as acquiescing to any prior art prior art status of the cited art.

² Support for the claim amendments and/or new claims can be found throughout the specification and drawings as originally filed.

B. ALLOWED SUBJECT MATTER

The Examiner has indicated that claims 5-10, which correspond generally to claims 16-21 from the preliminary amendment, would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. In response, Applicant has rewritten claim 16 in an independent format so as to include all of the limitations of the base claim and the intervening claims. In particular, the scope of claim 16 has not been narrowed in any way so as to overcome any prior art, but merely been rewritten in an independent format. As acknowledged by the Examiner, these claims are patentably distinct from the prior art, and are now in a condition for allowance. Moreover, for at least the same reason, claims now depending from claim 16 namely, claims 17-21, are also in a condition for the allowance. Applicant wishes to thank the Examiner for the careful review and allowance of those claims.

C. PRIOR ART REJECTIONS

I. REJECTIONS UNDER 35 U.S.C. §102(A/B/E)

The Office Action rejected claims 12-15, and 22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,445,646 (*Euteneuer*). Because *Euteneuer* does not teach or suggest each and every element of the rejected claims, Applicant respectfully traverses this rejection in view of the following remarks.

Euteneuer teaches a single layer hydraulic sheath stent delivery apparatus and method. (Title) The Office Action asserts, "[t]here is inherently a fluid pressure device for providing the fluid to expand the expandable means and to operate the retraction device" (Office Action, p. 2) (citations omitted). The referenced portion of the *Euteneuer* teaches, "[c]atheter securing balloons 106 can be optionally inflated prior to deployment to aid in preventing catheter movement during deployment by frictionally engaging vessel wall 108" (Col. 9, ll. 35-38). Further, as illustrated in Figs. 12-14, the securing balloons 106 are positioned distally and proximally of the stent 17.

In direct contrast, claims 12 specifically recites, in part, "an expandable means mounted at the distal end of the catheter and being expandable by means of a fluid pressure device, the *expandable stent* being expandable from delivery diameter to a deployment diameter and being *mounted on the catheter over the expandable means*" (emphasis added). Such a configuration places the expandable stent over the expandable means. Claims 12 further recites, in part, "a sheath being slidable mounted on the stent and being arranged for proximal retraction to expose the stent by means of a retraction device, wherein the fluid pressure device is further arranged for

operating the retraction device so that *the expandable means is expanded in response to the retraction of the sheath*" (emphasis added). Accordingly, claim 12 recites an apparatus in which the expandable means is expanded in response to the retraction of the sheath rather than an apparatus in which a catheter securing balloon can be optionally inflated prior to deployment as taught by *Euteneuer*.

Since *Euteneuer* does not teach the apparatus being claimed in this application, Applicant respectfully requests that the rejection of claim 12 under 35 U.S.C. § 102(b) be withdrawn. Claims 13-15 and 22 depend from claim 12 and thus include all the same element. For at least the same reasons discussed above, Applicant respectfully requests that the rejection of claims 13-15 and 22 should also be reconsidered and withdrawn.

D. CONCLUSION

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

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For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 14th day of April, 2008.

Respectfully submitted,

/Paul N. Taylor, Reg.# 57271/

PAUL N. TAYLOR
Registration No. 57,271
Attorney for Applicant
Customer No. 57360
Telephone No. 801.533.9800

FDR: kdj
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